

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

MARY TROUPE, et al.)	
)	
)	
Plaintiffs,)	
)	
v.)	CASE NO. 3:10cv153HTW-LRA
)	
GOVERNOR HALEY BARBOUR, et al.)	
)	
Defendants.)	
)	

**PLAINTIFFS’ NOTICE OF FINDINGS OF THE UNITED STATES’ INVESTIGATION
OF THE STATE OF MISSISSIPPI’S SERVICE SYSTEM FOR PERSONS WITH
MENTAL ILLNESS AND DEVELOPMENTAL DISABILITIES**

The United States Department of Justice (“DOJ”) recently completed an investigation of the State of Mississippi’s system for delivering services to individuals with mental illness and developmental disabilities. This investigation included an assessment of Mississippi’s compliance with the two federal laws that form the basis of Plaintiffs’ claims in this case: Title II of the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12131-12134, as interpreted in *Olmstead v. L.C.*, 527 U.S. 581 (1999); and the Early and Periodic Screening, Diagnostic and Treatment (“EPSDT”) provisions of the Medicaid portion of the Social Security Act, 42 U.S.C. § 1396 *et seq.* Plaintiffs’ claims in this case fall under both of these federal statutes. Complaint ¶¶ 63-70 [ECF No. 1]. Plaintiffs hereby file with the Court the findings of DOJ’s investigation. *See* Letter from Thomas E. Perez, Assistant Attorney General, DOJ, to Governor Haley R. Barbour (Dec. 22, 2011) (attached as Exhibit A).

In a letter dated December 22, 2011, DOJ concluded that the State of Mississippi is violating the ADA and the EPSDT provisions of the Medicaid Act by failing to provide

individuals with mental illness with appropriate community-based mental health services, resulting in unnecessary institutionalization. DOJ specifically noted that “hundreds of those who are unnecessarily institutionalized in Mississippi in violation of the ADA are children with disabilities.” *Id.* DOJ also concluded, among other things, that:

- 1) “Many Medicaid-eligible children enter psychiatric facilities in Mississippi because they are not receiving medically necessary services that the State is required to provide. Children in Mississippi who have mental health, emotional and behavioral needs typically require services such as intensive case management, mobile crisis services, behavioral support, and family education services to avoid unnecessary institutionalization. Mississippi fails to provide these medically necessary treatment services prior to their institutionalization, and instead, these children cycle through local hospitals, State hospitals, and PRTFs [psychiatric residential treatment facilities], including the Specialized Treatment Facility (“STF”).” *Id.* at 30.
- 2) “Staff at STF acknowledged that a large number of the children they serve could succeed in their own homes and communities if they received the supports offered to a limited number of children through the MYPAC program.^[1] The State itself has found that MYPAC is equally or more effective than institutional placement. Despite this recognition, the State does not divert all children from segregated congregate placements and offer them effective home-based supports required by EPSDT. . . . The State has an obligation to identify the need for services and provide treatment that will ameliorate children’s disabilities and cannot wait to offer flexible

¹ MYPAC, or Mississippi Youth Programs Around the Clock, is a Medicaid waiver program that offers community-based services to a limited number of children as an alternative to traditional residential services.

support until after someone has received the most segregated treatment.” *Id.* at 30-31. (footnotes omitted).

- 3) “[C]hildren in Mississippi’s institutional settings could be served in the community if flexible, intensive home-based supports were available, and . . . children with similar needs are currently served through the MYPAC program. However, the Division of Medicaid and the DMH staff do not provide the supports mandated under EPSDT to help families prevent unnecessary institutionalization. In fact, few providers are aware that EPSDT services are not limited to those services that already exist in the State Plan.” *Id.* at 31.

Respectfully submitted, this 27th day of February, 2012,

/s/Vanessa Carroll

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CERTIFICATE OF SERVICE

I, Vanessa Carroll, do hereby certify that on the 27th day of February 2012, I electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

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THIS the 27th day of February, 2012,

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